IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

**WRIT PETITION NO. 442 OF 2007.**

Muzzamil Akhtar Abdul Raheem
And another ..Petitioners
V/s
The State of Maharashtra & Anr. ..Respondent.

Mr. Amin Solkar for the Petitioners.
Mr.S.R. Borulkar, PP for the State.

**CORAM : R.M.S.KHANDEPARKAR AND**
**SMT. V.K. TAHILRAMANI, JJ.**

**DATE : 10TH JULY , 2007.**

P.C.

. Heard Mr. Solkar, learned Counsel for the petitioners and Mr. Borulkar, learned PP for the State. The grievance of the petitioners is that the petitioners are being illegally detained in the prison. During the course of the trial in POTA Special Case No.2 of 2003, they were not even being produced in the Court for the purpose of the trial.

2. The respondents have filed the affidavit and therein it has been stated thus;

> "I say that on 22.07.2003 the Petitioners were produced before the Learned Pota Special Court

and the Learned Judge was pleased to pass the Order as "all accused are now remanded to Judicial Custody until disposal of the case". I crave leave to refer to rely upon the copy of the rozanama as and when required.

I say that after 22.07.2003 the Petitioners were produced before the Learned Special Judge (POTA), Mumbai on the following dated:-

22.07.2003, 12.09.2003, 24.09.2003, 09.10.2003,

11.12.2003, 16.12.2003, 17.12.2003, 18.12.2003,

13.01.2004, 23.01.2004, 06.02.2004, 09.02.2004,

16.02.2004, 17.02.2004, 20.02.2004, 24.02.2004,

26.02.2004, 27.02.2004, 11.03.2004, 19.03.2004,

22.03.2004, 25.03.2004, 26.03.2004, 29.03.2004,

31.03.2004, 01.04.2004, 02.04.2004, 07.04.2004,

08.04.2004, 21.04.2004, 22.04.2004, 05.04.2004,

06.05.2004, 07.05.2004, 17.05.2004, 07.06.2004,

21.06.2004, 22.06.2004, 23.06.2004, 28.06.2004,

30.06.2004, 06.07.2004, 08.07.2004, 14.07.2004,

15.07.2004, 16.08.2004, 31.08.2004, 08.09.2004,

21.09.2004, 07.10.2004, 26.10.2004, 05.11.2004,

01.12.2004, 09.12.2004, 22.12.2004, 11.01.2005,

15.02.2005, 10.03.2005, 23.03,2005, 08.04.2005,

16.04.2005, 21.04.2005, 03.05,2005, 18.05.2005,

07.06.2005, 23.06.2005, 05.07.2005, 16.07.2005,

25.07.2005, 04.08.2005, 10.08.2005, 19.08.2005,

25.08.2005, 23.09.2005, 18.10.2005, 16.11.2005.

> I say that on 09.06.2003 the Petitioners along with other accused were produced before the Learned Special Court and the accused persons in the Court premises disturbed the peace of the Court. Hence, to prevent nuisance in the Court premises and disturbance of peace to the Court in future by the accused or their or their acquaintances. The Court has dispensed with the attendance of accused in the Court till further order. The said Order was passed under Section 371(1) of Cr.P.C. I crave leave to refer to rely upon the Order passed by the learned Special Judge as and when required."

. Apparently, the appearance of the petitioners in the Court during the trial has been dispensed with in exercise of powers under section 309 r/w section 371(1) of Cr.P.C. Being so, it cannot be said to be an illegal detention warranting interference in writ jurisdiction.

3. Admittedly, the trial in the POTA case has been stayed by the order passed by the Apex Court. In the circumstances, there is no case made out for issuance of any writ in the nature asked for or otherwise. Hence, the petition fails and is dismissed.

**(R.M.S. KHANDEPARKAR, J.)**

**(SMT. V.K.TAHILRAMANI,J.)**